

HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Marsha S. McLaughlin, Director

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September 24, 2009

TECHNICAL STAFF REPORT

Petition Accepted on May 26, 2009
Planning Board Meeting of October 8, 2009
Zoning Board Hearing to be scheduled

Case No./Petitioner: ZB 1082M – Highland Holding LLC

Location: Fifth Election District

South side of Highland Road approximately 600 feet northwest of MD 108

Tax Map 40, Grid 4, Parcel 50; 12857 Highland Road

(the "Property")

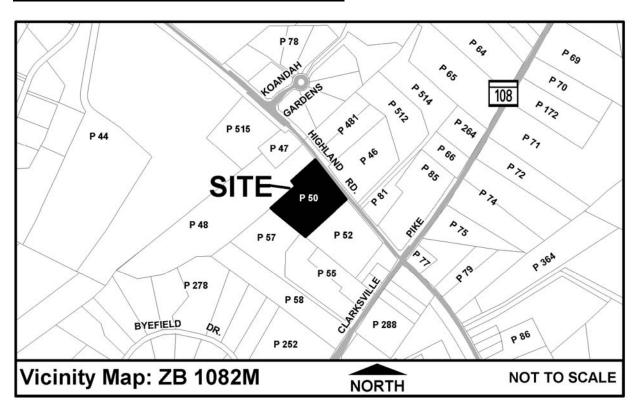
Area of Site: 3.06 acres

Current Zoning: RR-DEO

Proposed Zoning: BR, with a Preliminary Development Plan for a standard restaurant

Department of Planning and Zoning Recommendation:

APPROVAL



PETITIONER: Highland Holding LLC

I. DESCRIPTION OF PROPOSAL

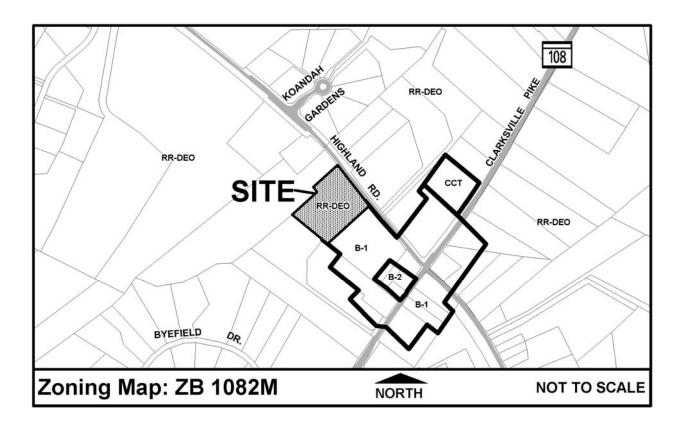
The Petitioner proposes a Zoning Map Amendment to rezone the Property from the current RR-DEO (Rural Residential – Density Exchange Option Overlay) District designation to the BR (Business: Rural) District.

The BR District is a floating zone in which the evaluation is based upon compliance with certain criteria and the approval is tied to a specific Preliminary Development Plan. Such a case is not subject to the standard piecemeal map amendment factors of substantial change in the character of the neighborhood, or mistake in zoning.

The intended use of the Property is for a standard restaurant with approximately 5,085 square feet of floor area/patio area and less than 100 seats. The Property is currently improved with a noncomplying, two-story, frame, single-family detached dwelling consisting of an original building that pre-dates the first Zoning Regulations, and a more recent addition to the side and rear.

In the petition Supplement, it is stated that the existing building is not "...proposed to be altered in any significant way..." for the restaurant.

The Petitioner states that the most significant change to the Property would be the addition of a parking lot which would be to the south and southeast of the building.



PETITIONER: Highland Holding LLC

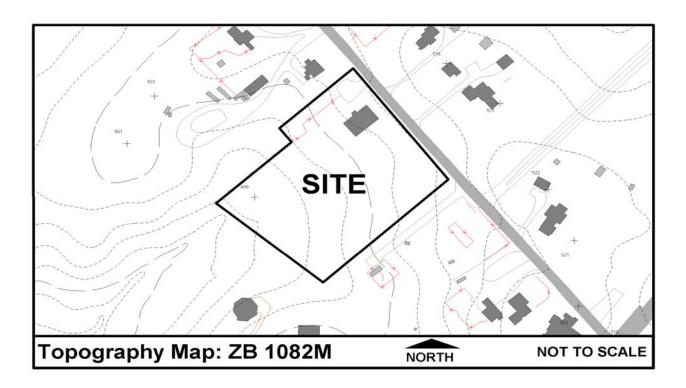
I. DESCRIPTION OF PROPOSAL

This paved parking lot would have 82 parking spaces, which is greater than the minimum parking requirement of 72 parking spaces. A short driveway would lead to this parking lot from an entrance adjacent to the northeast corner of the Property. A trash receptacle enclosure is depicted at the southeast corner of the parking lot.

According to the information contained in the report of the Presubmission Community Meeting for this case, the proposed restaurant is anticipated to be open seven days each week, but only for lunch and dinner.

Precise hours of operation are not given, so it is recommended that the Petitioner provide more information on this as it is an issue which may be significant in the evaluation whether the use is compatible with the neighboring land uses.

- # The Petitioner maintains that the proposed BR District will accomplish the purposes of the BR District because the "...restaurant will support the agricultural industry as there will be an effort made to procure locally grown produce and other local food products."
- # The proposed BR District development on the Property is stated to be in harmony with the General Plan Preservation of the Rural West Policy No. 3.10 to "Direct commercial expansion and redevelopment efforts to existing commercial crossroads in the Rural West."



PETITIONER: Highland Holding LLC

I. DESCRIPTION OF PROPOSAL

4 One important issue to note concerns proposed encroachments into the BR District setback requirements from the adjoining properties to the northwest and southeast.

The adjoining parcel to the northwest is zoned RR-DEO, so if the Property becomes zoned BR there would be a structure and use setback of 100 feet from this parcel. The proposed Preliminary Development Plan for the BR District (the "BR PDP") depicts two encroachments into this setback; one is approximately 15.5 feet for a portion of a patio use, and the other is approximately 28 feet for what appears to be a porch addition.

The adjoining parcel to the southeast is zoned B-1, and the required structure and use setback would be 30 feet. The BR PDP depicts the driveway and parking lot uses approximately 11 feet from the side lot line, an encroachment of approximately 19 feet.

- # The Petitioner is unable to request variances at this time for the proposed encroachments because the setback requirements noted above only become effective if the Property is rezoned to the BR District.
- # The BR District regulations do not address reductions to the minimum structure and use setbacks of Section 117.1.F.2. as part of the Preliminary Development Plan approval.

So the approval of the BR PDP would have to be on a contingent basis, subject to variance approval by the Hearing Authority, because the BR PDP does include the setback encroachments noted above.

II. ZONING HISTORY

- A. Subject Property and Adjacent Properties
- The Property and the adjacent properties were zoned R-40 by the 1961 Comprehensive Zoning Plan, except as noted below.

The properties at the intersection of MD 108 and Highland Road were zoned B-2 at that time. This B-2 zoning extended 200 feet up Highland Road, so that the adjoining Parcel 52 to the southeast was predominantly R-40 but had a very narrow strip of B-2 zoning along its southeast side lot line.

■ The 1977 Comprehensive Zoning Plan zoned the Property and the adjacent properties R.

The commercial zoning at the MD 108 and Highland Road intersection was then B-1, still extending 200 feet up Highland Road, so the adjoining Parcel 52 was mainly zoned R with a small strip of B-1.

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II. ZONING HISTORY

■ The Property remained zoned R by the 1985 Comprehensive Zoning Plan, as did the adjacent properties to the northwest, northeast, and southwest.

However, the adjoining Parcel 52 to the southeast was entirely zoned B-1, extending the B-1 zoning approximately an additional 400 feet up the south side of Highland Road.

■ The Property was zoned RR-DEO by the 1992 Comprehensive Zoning Plan for western Howard County.

All other adjacent R properties were also zoned RR-DEO. The B-1 area to the southeast remained as shown on the 1985 maps. This zoning configuration was retained in the 1993 Comprehensive Zoning Plan and the 2004 Comprehensive Zoning Plan.

■ The Property was the subject of the following cases:

A. Case No. ZB 1011M

Petitioner: Lawrence Patrick and Susan Patrick

Request: Zoning Map Amendment to rezone 3.30 acres from RR-

DEO to B-1 with a Documented Site Plan.

Action: Dismissed, February 8, 2001

B. Case No. BA 00-24V

Petitioner: W. Lawrence Patrick and Susan Patrick

Request: Reduce required 75 foot setback from a collector public

street right-of-way to 56.2 feet for an addition to a

single-family detached dwelling.

Action: Approved, August 31, 2000

C. Case No. AA 00-06

Petitioner: W. Lawrence Patrick and Susan Patrick

Request: Reduce required 75 foot setback from a collector public

street right-of-way to 71.2 feet for an addition to a

single-family detached dwelling.

Action: Dismissed, June 1, 2000

III. BACKGROUND INFORMATION

A. Site Description

The Property is improved with a two-story, single-family detached dwelling, the front portion of which existed prior to the establishment of zoning regulations. This dwelling is located at the front of the Property, approximately 30 feet from the existing pavement for Highland Road, a Major Collector highway.

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III. BACKGROUND INFORMATION

Like many older houses in rural areas, the original portion of this building has been legally noncomplying to the front setback requirements for many years. The addition was constructed approximately in 2001, and because the encroachment into the front setback was not increased, it was permitted without any need for a variance.

- The existing improvements on the Property are in the northwestern area, with the remainder generally an open lawn. Access to the Property is via a short paved driveway from Highland Road near the northwest corner. The existing house is to the southeast of this driveway.
- Topography on the Property slopes moderately down from Highland Road to a low point and pond near the southwest corner. There is a prominent large oak tree in front of the dwelling, mixed vegetation along the side lot line to the northwest and also along the rear of the Property.

B. Vicinal Properties

■ Except for Parcel 52 located to the southeast which is zoned B-1, all other adjacent properties are also zoned RR-DEO. The adjoining property to the northwest is improved with a two-story brick single-family detached dwelling which is also located relatively close to Highland Road. There are various accessory structures located behind this dwelling, and this parcel has also been used for a contractor's business for many years.

Further to the northwest is Parcel 47 which is improved with a two-story, frame single-family detached dwelling, and beyond this, the new Highland post office facility. Across Highland Road to the north and northeast are several single-family detached dwellings, all of which are set back relatively far from Highland Road and are mostly screened from the road by existing vegetation.

■ The closest area of the adjoining B-1-zoned Parcel 52 to the southeast is a driveway to a commercial communications tower facility located near the northwest corner of that parcel. Further to the southeast on this side of Highland Road is a former dwelling which is used for commercial purposes and a general store on the southwest corner of MD 108 and Highland Road.

To the south of the Property is a wooded parcel which is improved with a single-family detached dwelling accessed via a long driveway from MD 108. The immediate area to the southwest of the Property is a field.

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III. BACKGROUND INFORMATION

C. Roads

Highland Road has approximately 21 feet of paving within a proposed 80 foot wide right-of-way. The posted speed limit is 35 miles per hour.

The estimated sight distance from the approximate location of the proposed driveway entrance is approximately 600 feet to the southeast to the intersection with MD 108 and over 500 feet to the northwest.

Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.

According to data from the Department of Public Works, the traffic volume on Highland Road north of MD 108 was 4,295 ADT (average daily trips) as of January, 2007.

D. Water and Sewer Service

The Property is not in the Metropolitan District and is within the No Planned Service Area according to the Geographic Information System Maps.

The proposed development would be served by private water and septic facilities. An existing well is located near the northwest corner of the Property. The plan shows a septic area to the southeast of the building, between the road and the parking lot, and a reserve area to the southwest of the building.

E. General Plan

- # The Property is designated Rural Residential on the Policies Map 2000-2020 of the 2000 General Plan. Highland has a Village and Community Centers designation.
- # Highland Road is depicted as a Major Collector on the Transportation Map 2000-2020 of the 2000 General Plan.

F. Agency Comments

- **See attached comments on the proposal from the following agency:**
 - 1. Bureau of Environmental Health
- **The following agencies had no objections to the proposal:**
 - 1. Department of Recreation & Parks
 - 2. Department of Inspections, Licenses and Permits
 - 3. Development Engineering Division

PETITIONER: Highland Holding LLC

III. BACKGROUND INFORMATION

G. Adequate Public Facilities Ordinance

The petition is subject to the Adequate Public Facilities Ordinance. A site development plan for the proposed development is subject to the requirement to pass the test for adequate road facilities.

IV. EVALUATIONS AND CONCLUSIONS

A. Relation to the General Plan

The Department of Planning and Zoning concurs with the Petitioner that the petition is in harmony with Preservation of the Rural West Policy 3.10 to "Direct commercial expansion and redevelopment efforts to existing commercial crossroads in the Rural West."

Highland has a unique, longstanding rural commercial crossroads character that has been maintained even with the relatively close, major new commercial development that has occurred in Clarksville approximately two miles to the northeast on MD 108.

This proposal for the BR District is an appropriate expansion of the Highland commercial crossroad because the property is situated in the area between the intersection at MD 108 and the post office, which was relocated to the current site from a site at the commercial crossroad a number of years ago. It is also suitable because it will maintain the overall architectural character of Highland by using the existing building for the restaurant.

B. Evaluation of Section 117.1.B. (Criteria for a BR District)

- # As noted above, the Property is within the No Planned Service Area. The petition complies with Section 117.1.B.1
- # The Property has over 300 feet of frontage on Highland Road, a Major Collector highway. This road has a relatively low traffic volume, typically low traffic speeds in this location, and has no obvious problems with sight distance in this location. The petition complies with Section 117.1.B.2.
- # The proposed redevelopment of the Property for the proposed restaurant use will principally involve adding the parking lot, which appears will be appropriately screened and buffered from the other properties in the vicinity. The character of the existing building will be largely unchanged.

A restaurant use of the type proposed is a logical and reasonable expansion of the Highland commercial crossroad on the south side of Highland Road between the MD 108 intersection and the post office. The use would be well separated and screened from the existing homes in the vicinity.

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IV. EVALUATIONS AND CONCLUSIONS

C. Evaluation of Section 117.1.G.3. (Zoning Board findings for a BR District)

- # Highland and its surrounding areas are generally more residential in character than agricultural. A BR District with the type of restaurant use proposed will serve the needs of this rural residential community for a nearby location to entertain and socialize, and such restaurants are relatively rare in the rural areas of the County. The petition complies with Section 117.1.G.3.a.
- # For the reasons noted above in the evaluation of Section 117.1.B., the petition complies with Section 117.1.G.3.b.
- # The proposed restaurant is relatively small, so the business-related traffic is expected to be low to moderate. Generally, the current traffic volume on Highland Road is low, and a use of this type will not increase it to any significant degree.

It is likely that most of the business-related traffic will be coming to the site from points to the north, east, and south, and this will mean that most vehicles will be traveling northwest on Highland Road and making left turns into the driveway. The existing two lanes of Highland Road should be adequate to handle this type of pattern without undue stacking of vehicles because there would be few conflicts between these left-turning vehicles and vehicles traveling southeast on Highland Road. However, there appears to be adequate room for a left-turn lane and a pass-by lane for northwest bound vehicles if such a design is considered to be necessary.

- # A Site Development Plan for the proposed use would have to include a sight distance study, and the sight distance would have to meet all requirements, but there is no obvious issue with sight distance currently. Highland Road in this immediate location is straight and has no topographic characteristics that reduce or block sight distance, so the sight distance is expected to be adequate.
- # The BR PDP indicates that there will be a landscaped berm along the road frontage, and this is highly desirable because this will help to screen and buffer the vehicles and activity in the parking lot. A wide landscape buffer would be provided between the building and the residential use to the northwest. The other landscape buffers along the properties to the southeast and southwest are also quite adequate.

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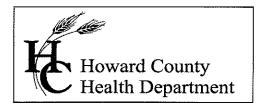
V. RECOMMENDATION APPROVAL

For the reasons noted above, the Department of Planning and Zoning recommends that the request to rezone the Property from RR-DEO to BR be **APPROVED**, but that the approval of the BR PDP for the redevelopment of the Property with the proposed standard restaurant be contingent upon the approval of variances by the Hearing Authority for the encroachments into the structure and use setback from the northwest property line for the patio and porch, and for the encroachment into the use setback from the southeast property line for the parking lot and driveway.

Marsha S. McLaughlin, Director Date

MM/JRL/jrl

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.



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Peter L. Beilenson, M.D., M.P.H., Health Officer

	MEMORANDUM	09
TO:	J. Robert Lalush, Acting Chief Division of Planning & Zoning Administration	AUG 25
FROM:	Sara Sappington, R.S. Sy Well and Septic Program	# 3: 19
RE:	File Number: ZB 1082M Title: 12857 Highland Rd	
DATE:	August 20, 2009	

The Health Department has no objection to the request to amend the zoning map of Howard County. This property has had percolation testing completed; however, the proposed septic area has not been approved by the Health Department. The additional trees shown on the submitted plan may impact septic area. Further review will be needed.